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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,228	12/11/2001	Antonio Colmenarez	US010545	3088

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EXAMINER

HANEY, MATTHEW J

ART UNIT PAPER NUMBER

2613

DATE MAILED: 04/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,228

Applicant(s)

COLMENAREZ ET AL.

Examiner

Matthew Haney

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7-21 and 23-31 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9, 10, 26 and 27 is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-21, 23-25 and 28-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the amendment filed by the applicant.

Allowable Subject Matter

1. Claims 9-10 and 26-27 are allowed.

Response to Arguments

Applicant's arguments filed December 13, 2004 have been fully considered but they are not persuasive. The Examiner respectfully points out to the Applicant that the argument that a plurality of alert codes can not be found in Aviv is unfounded (Note: In Column 9, Lines 23-37, Aviv teaches that a plurality of alerts are generated, see specifically Column 9, Line 24-32). Applicant's addition of sensors placed on a shopping cart is acknowledged and is rejected in this Office Action. As for Applicant's argument that Aviv's invention is not capable of determining and focusing on a bag, the Examiner would like to also point out (besides what is already shown in the rejection included within this Office Action) that Aviv's specifically teaches that the invention can be used on objects or people, See Column 5, Lines 42-45 specifically.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1-2, 5, 7, and 16-18, 21, and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Aviv (US 6,028,626).

3. As for claim 1, 5, 16, 17, and 21, Aviv teaches of means for observing behavior in a predetermined area under surveillance (Column 3, Lines 21-55); means for processing an output of observed behavior from said means for observing, said means for processing including a pattern recognition means for recognizing whether said observed behavior is associated with predefined suspicious behavior (i.e. potential crime); means for notifying that said pattern recognition means recognizes at least one behavioral pattern associated with said set of predefined suspicious behaviors has been observed by said means of observing (Column 9, Lines 38-45). Aviv teaches of said means for notifying includes warning signals communicated to a monitoring site, includes a plurality of alert codes corresponding to a severity level of said at least one behavioral pattern associated with said set of predefined suspicious behaviors recognized by said pattern recognition means (Note: The invention shows different responses depending on the situation (i.e. light or dark) and also gives a multitude of different possible responses to criminal activity detection, Column 9, Lines 23-37).

4. As for claim 2 and 18, Aviv teaches of said means for observing includes cameras (Column 4, Lines 64-67).

5. As for claim 7 and 23, Aviv teaches of wherein said area under surveillance includes a retail store, and said predefined suspicious behaviors recognized by said pattern recognition means includes recognizing a plurality of people entering the store

as one group, said plurality subsequently separating into sub-groups in different portions of the store, and re-emerging as said one group when leaving the store (Note: shows the capability of separating the group and then following each individual (Column 9, Lines 41-54), Column 9, Lines 1-10, Column 10, Lines 17-31 (shows retail store)).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626). Aviv teaches of said means for observing includes sensors, and said sensors sense sound (Column 5, Lines 15-19). Aviv does not explicitly teach of placing the sensors on a shopping cart, however, Aviv does teach of placing the sensor in places where surveillance can be done. It is therefore considered obvious to one of ordinary skill in the art at the time of the invention that placing a sensor on a shopping cart would allow for better audio capturing due to its close proximity to the shopper. (Official Notice)

7. Claims 12-13 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626). Aviv does not explicitly teach of said pattern recognition means further comprises recognizing that a particular shopper is carrying a

bag, and manipulating the bag, however, Aviv does teach of a zoom capability that can focus and follow objects and determine patterns of them (Column 5, Lines 55-67, and Column 6, Lines 1-29). It would have been obvious to one of ordinary skill in the art at the time of the invention to use the zoom capability of the invention to focus in on objects other than people because the subsequent action of an object (i.e. a gun or knife) is an immediate indication of suspicious activity.

8. Claims 8, 11, 14, 24-25, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626) in view of Brill (US 6,628,835). Aviv does not explicitly teach of the following, however, Brill does: pattern recognition means including recognizing that a particular shopper has walked up and down a predetermine number of aisles without selecting an item for purchase (i.e. loitering which is defined as standing still or walking with many stops along the way), pattern recognition means including recognizing that a particular shopper has spent a predetermined amount of time in the store without selecting an item for purchase, a predetermined area outside of said store, and said pattern recognition means recognizing when a person is in the predetermined area outside of said store for a predetermined amount of time (Note: Loiter is used by Brill to determine if a person has been inactive for a certain amount of time and if so then an alarm is activated, Column 7, Lines 6-24, Also note that it is considered an obvious variation to look for inactivity inside or outside the store). It would have been obvious to one of ordinary skill in the art at the time of the invention to

take into account the idea of loitering because it is considered suspicious activity by Brill and Aviv allows for all suspicious activity to be accounted for in his invention.

9. Claims 15 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aviv (US 6,028,626) in view of NMSU Police Department. Although Aviv does not explicitly teach of pattern recognition means recognizes that a particular shopper is wearing a coat when an outside temperature is greater than a predetermined value, the NMSU Police Department does (Under "What is Suspicious Behavior" the article reads "wearing heavy clothing in warm weather"). It would have been obvious to one of ordinary skill in the art at the time of the invention to take into account the idea of wearing a heavy coat in warm weather because it is considered suspicious activity by the NMSU Police Department and Aviv allows for all suspicious activity to be accounted for in his invention.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Haney whose telephone number is (571) 272-7330. The examiner can normally be reached on M-Th (5:30-3:00), Every Other Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjh

Matthew Haney
Examiner
Art Unit 2613



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